

REMARKS

The Office Action mailed August 9, 2006 has been received and reviewed. Claims 1-6 and 8-20 are pending and rejected on new grounds over cited references. Claims 1, 8, 10 and 14 are amended. The Applicants submit that the claims are now in condition for allowance for the reasons set forth below.

Objection To Claims 8 and 9

Claims 8 and 9 are objected to for incorrect claim dependency. The claims are amended accordingly to correct the dependency.

Rejection Of Claim 14 Under 35 U.S.C. § 112

Claim 14 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The claim is amended to overcome the rejection.

Rejection Of Claims 1-6, 8 And 9 Under 35 U.S.C. § 102(b)

Claims 1-6, 8 and 9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Foss, et al. ("Foss"). The Examiner states that Foss teaches the claimed elements. The rejection is overcome by clarifying amendment of claim 1. As amended, claim 1 requires at least one positioning mechanism secured to one of the sections of the bed and is positioned to span adjoining sections and contact the top surface of the adjoining section to maintain the adjoining sections in a non-collapsed (i.e., deployed state). Support for the amendment is found in paragraph [0027] of the specification. While Foss teaches two adjoining sections that have end-facing surfaces 16 and 46 that contact each other when the two adjoining sections are in a non-collapsed or deployed state, Foss does not teach a positioning mechanism as claimed (i.e., which spans the top surface between adjacent adjoining sections of the bed and is positioned to contact the surfaces of adjoining adjacent sections). Moreover, Foss teaches that the use of the piano hinge between the two sections allows the two sections to flex relative to each

other (see, column 12, lines 25-29), contrary to that which is claimed. Therefore, claims 1-6, 8 and 9 are not anticipated by Foss.

Rejection Of Claims 10-20 Under 35 U.S.C. § 103

Claims 10-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Foss in view of Austin (USP 5,915,723). The Examiner states that Foss teaches the claimed elements, except for teaching a locking device (90, 94) that allows positioning (of the handle) at a non-perpendicular angle. The Examiner states that Austin discloses a cart having a handle which is positionable with respect to the cart at various angles through the use of a locking device, and that it would have been obvious to provide the locking device of Foss with the variable angle devices taught by Austin for the purpose of allowing adjustment of the handle to change the handle elevation to accommodate a user's desired position. The rejection is overcome by clarifying amendment of claim 10. As amended, claim 10 requires a handle positioning mechanism that is located between a terminal end of the handle assembly and the bed of the hauling device to position the handle assembly as a non-perpendicular angle to the bed when in a non-collapsed (i.e., deployed) state. Support for the amendment is found at paragraph [0036] of the specification as well as the drawings.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP §2143, et seq. Foss and Austin, in combination, do not establish a *prima facie* case of obviousness as to claims 10-20 because there is

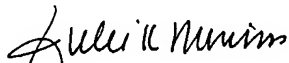
no motivation to combine the references and, indeed, they could not be combined to obviate that which is claimed. Specifically, Foss discloses in one embodiment of the cart device (shown in FIG. 5) a handle assembly (71) that abuts a cross-bar (15) which prevents the handle assembly from maintaining anything but a perpendicular orientation to the bed section (17) when the handle assembly is in a deployed or non-collapsed state. Foss also discloses a second embodiment (shown in FIG. 18) where the handle assembly also pivots relative to the bed section (211). However, as shown in FIG. 23 of Foss and described at column 12, lines 51-58, the cart is structured with “a transverse short hollow rod or tube 277 (that) is welded to the underside of each short tube 273 (FIGS. 23 and 27) and functions as an abutment or stop by contracting (sic, contacting) a lower terminal end portion (unnumbered of each tube 274, 275 to prevent clockwise (as viewed in FIGS. 23 and 26) pivotal movement of the first handle member 271 beyond the vertical position shown in FIGS. 23 and 26.” Therefore, Foss teaches that the handle assembly is to be maintained in a vertical or perpendicular orientation to the bed section (211) when is a deployed or non-collapsed state. Nothing in Foss suggests that the cart should be structured to enable the handle to be positioned at a non-perpendicular angle to the bed section. In fact, Foss teaches away from any such suggestion. Therefore, one of skill in the art would not be motivated to combine the variably adjustable device of Austin with Foss, and any attempt to combine the device of Austin with the locking mechanism of Foss, as suggested by the Examiner, would still result in the handle assembly maintaining a perpendicular orientation to the bed given the structure (i.e., cross bar 215 and abutment tube 277) of the Foss embodiments. Therefore, Foss and Austin cannot be physically combined, and there is no motivation found in the references to combine the structures as suggested by the Examiner. Consequently, claims 10-20 are not obviated by Foss and Austin.

CONCLUSION

In view of the amendments and arguments presented, the Applicants submit that

claims 1-6 and 8-20 present patentable subject matter. Reconsideration and allowance are respectfully requested.

Respectfully submitted,



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